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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 180709616-8616-01]

RIN 0648-BI07

Fisheries of the United States; Regulations for Striped Bass Fishing in the Block Island Transit Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS issues this advance notice of proposed rulemaking (ANPR) to provide background information and make the public aware of a proposal to remove the current prohibition on recreational Atlantic striped bass fishing in the Block Island Transit Zone (Transit Zone) within the Federal exclusive economic zone (EEZ). The ANPR is in response to the 2018 Omnibus Appropriations Act which included the provision directing NOAA, in consultation with the Atlantic States Marine Fisheries Commission, to consider lifting the ban on striped bass fishing in the Federal Block Island Transit Zone. NMFS communicated the intent to issue this ANPR at the Atlantic States Marine Fisheries Commission's August 2018 public meeting. By this action, NMFS is soliciting public comment on options presented to regulate fishing for striped bass in the Transit Zone. In addition, comments on other options to improve management of Atlantic striped bass in the Transit Zone are welcomed and encouraged.

DATES: Written comments regarding the issues in this ANPR must be received by 5 p.m., local time, on *[insert date 45 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2018-0106, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2018-0106*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Kelly Denit, Division Chief, Office of Sustainable Fisheries, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.
- *Fax:* 301-713-1193; Attn: Kelly Denit

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Kelly Denit, Division Chief, Office of Sustainable Fisheries, National Marine Fisheries Service, 301-427-8517.

SUPPLEMENTARY INFORMATION:

Background

Atlantic striped bass occur predominately within 12 nautical miles from shore, an area which includes both waters (0-3 miles from shore) under state jurisdiction, as well as portions of the Exclusive Economic Zone (3-200 miles from shore) under Federal jurisdiction. Management responsibility for Atlantic striped bass resides primarily with the coastal states, and interstate management occurs through the Atlantic State Marine Fisheries Commission's (Commission) Interstate Fisheries Management Plan for the Atlantic Striped Bass (ISFMP), first adopted in 1981. In 1995, the Commission declared the Atlantic striped bass population fully restored and implemented Amendment 5 to the ISFMP to perpetuate the stock so as to allow a commercial and recreational harvest consistent with the long-term maintenance of the striped bass stock. The latest stock assessment update completed in 2016 determined that the Atlantic striped bass stock is not overfished or experiencing overfishing.

NMFS promulgates regulations in Federal waters that are compatible with the Commission's ISFMP. The Atlantic Striped Bass Conservation Act (Pub. L. 100-589, 16 U.S.C. 5151, *et seq.*) sets forth the basis for Federal striped bass regulatory authority. Under the act, Federal Atlantic striped bass regulations must comply with the following: (1) be consistent with the national standards in Section 301 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1851); (2) be compatible with the fishery management plan for managing Atlantic striped bass and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal state; (3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal state; and (4) be sufficient to assure the long-term conservation of Atlantic striped bass populations. Further, in developing the regulations, the Secretary is to consult with the

Commission, the appropriate Regional Fishery Management Councils (Councils), and each affected Federal, state, and local government entity.

Existing Federal regulations prohibit recreational and commercial fishing for Atlantic striped bass in the EEZ. The regulations do, however, allow fishers to transport Atlantic striped bass caught in adjoining state fisheries while transiting the Block Island Transit Zone (Transit Zone; 50 CFR 697.7). The Transit Zone is defined in NMFS regulations as the area of Federal waters within Block Island Sound, located between areas south of Montauk Point, New York, and Point Judith, Rhode Island. The Transit Zone area is unique because it is a small area of Federal waters (Block Island Sound) substantially bounded by state waters (Long Island, New York on one side, Block Island, Rhode Island on another, and the mainland of Connecticut and Rhode Island on a third side).

NMFS is considering revising current regulations to authorize recreational fishing in the Block Island Transit Zone. This would allow recreational fishermen to harvest, retain, and transport striped bass within the Block Island Transit Zone. The ANPR is in response to the 2018 Omnibus Appropriations Act (Pub. L. 115-141) which included the provision directing “NOAA, in consultation with the Atlantic States Marine Fisheries Commission, to consider lifting the ban on striped bass fishing in the Federal Block Island Transit Zone.” NMFS communicated the intent to issue this ANPR to the Atlantic States Marine Fisheries Commission at the August 2018 meeting. NMFS is not proposing to allow commercial striped bass fishing in the Transit Zone, consistent with Executive Order 13449 (October 24, 2007; 72 FR 60531), “Protection of Striped Bass and Red Drum Fish Populations,” which declared it the policy of the United States to prohibit the sale of striped bass caught in the EEZ.

Public Comments

To help determine the scope of issues to be addressed and to identify significant issues related to this action, NMFS is requesting public comments on this ANPR. The public is encouraged to submit comments related to the potential regulatory revisions described in this ANPR, as well as additional ideas to improve management of striped bass in the Block Island Transit Zone.

Authority: 16 U.S.C. 1827a.

Dated: September 28, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

[FR Doc. 2018-21613 Filed: 10/3/2018 8:45 am; Publication Date: 10/4/2018]